

06-17-05

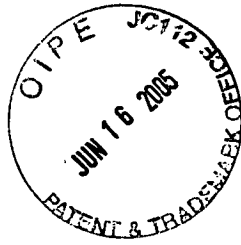
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Date: 16 June 2005

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KEITH L. JENKINS,  
Registered Patent Attorney for Applicant



Appl. No. : 10/949,868

Applicant : Kirk Evans, et al.

Filed : September 25, 2004

TC/A.U.: 3711

Examiner: Mark S. Graham

Docket No.: EV04004

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria VA 22313-1450

Dear Sir,

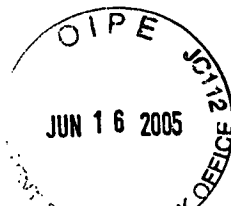
The enclosed APPLICANTS' RECORD OF TELEPHONE INTERVIEW OF 17 MAY 2005 and the enclosed REQUEST FOR WITHDRAWAL OF FINAL OFFICE ACTION AND , IN THE ALTERNATIVE, RESPONSE TO FINAL OFFICE ACTION are hereby resubmitted after having been originally mailed by certified first class mail on June 3, 2005. According to the tracking system provided by the US Postal Service, that correspondence was not delivered (see attached copy of the certified mail receipt and the USPS Track and Confirm output). An attempt to fax the enclosed correspondence failed on June 9, 2005. Hopefully, if all copies of the correspondence eventually arrive at the USPTO, confusion will be avoided by careful handling.

Best regards,

Keith L. Jenkins

Reg. No. 46,303

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Appl. No. 10/949,868  
Summary of Telephonic Interview of 05/17/2005



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**APPLICANTS' RECORD OF TELEPHONE INTERVIEW OF 17 MAY 2005**

**Applicants' Attorney's Summary of Telephonic Interview of 17 May 2005**

Applicants' attorney, Keith L. Jenkins, discussed the above-captioned pending application with Examiner Mark S. Graham for the purpose of determining the basis for the final rejections mailed 10 May 2005. The Examiner admitted that the last two lines in Claim 1 of the application do constitute an element of the claim. The Examiner raised, for the first time, the argument that the element contained in the last two lines of claim 1 was "inherently" present the Preast and Gibney references. Applicants' attorney stated that he did not see that any inherency arguments had been advanced by the Examiner in the First or Final Office Actions in the context of Preast and Gibney.

Applicants' attorney also discussed the restriction requirement with the Examiner. The Examiner asserted that the invention, as claimed, could be used without the icons to make a shot by mentally ignoring the icons and, therefore, could be used to practice a different process. Applicants' attorney disagreed, pointing out that the icons must be "observable in the peripheral vision" (Claim 1) and that the invention as claimed would create images in the mind of any user, even when the user's attention was not focused on them.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Keith L. Jenkins".

Keith L. Jenkins  
Reg. No. 46,303